

# Iran-Contra Report

## Won't Tell Whole Story

### Probers Recount Flaws in Their Investigation

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The New York Times  
The Washington Times  
The Wall Street Journal  
The Christian Science Monitor  
New York Daily News  
USA Today  
The Chicago Tribune

Date **5 NOVEMBER 1987**

The congressional Iran-contra committees, which launched their inquiry 11 months ago promising to get to the bottom of the scandal, are scheduled to vote today on a final report of their investigation that some members and top staff attorneys say records their failure to uncover the complete story.

The critics in the committees said mistakes by the House and Senate panels—primarily the self-imposed deadlines that encouraged delaying tactics by the White House and assisted lawyers representing such key witnesses as Marine Lt. Col. Oliver L. North—helped to hem in the probe and discourage investigators from following some important leads bearing on the Reagan administration's worst crisis.

In hindsight, they said in recent interviews, the problems included their own rush to open nationally televised public hearings, the initial choice of witnesses who quickly outmaneuvered the committees' interrogators, foot-dragging by executive branch agencies in providing key documents and failure to question a number of witnesses.

They also faulted the desire of many panel members to quickly end the inquiry in the wake of North's performance and Rear Adm. John M. Poindexter's assertion that President Reagan had not known of the diversion of funds from the Iran arms sales to the Nicaraguan contras.

"We blew it," a top committee counsel said recently. "At this point, it's up to [independent counsel Lawrence E.] Walsh to find out what really happened."

Most members acknowledge that the committees did not get the complete story, but they also agree with Senate committee Chairman Daniel K. Inouye (D-Hawaii) who said recently, "We went as far as any committee could . . . as humanly possible considering the time restraints . . . shredded papers and

the unavailability of [the late Central Intelligence Agency Director William J.] Casey."

However, interviews with more than 20 members and committee investigators over the past several weeks point to additional factors that inhibited the inquiry, including:

- Unresolved disagreements over how to run it. For example, the Senate panel turned down a September proposal by House Democrats, including Chairman Lee H. Hamilton (D-Ind.), to send written questions to Reagan about his knowledge and role in the affair. Instead, according to Inouye, the White House was told "if the president had a desire to appear, we would accommodate him." Reagan never expressed such a desire, and members said last week they do not expect one.

- The committees, by not subpoenaing government documents, left the White House and other agencies free to turn over documents at their own pace, without fear of legal action. One experienced staff investigator said the committees "started off all wrong because they set a timetable, when the hearings would start in public and when the whole investigation was over. This was an invitation to stall." He and others said the CIA, the Justice Department and the White House delayed in providing key material.

- Although the White House provided thousands of documents in response to panel requests, key records often arrived late in the process. Investigators now say they often found themselves buried under irrelevant material, with important papers arriving just before or after the appearance of pertinent witnesses.

- The deal negotiated to gain the public testimony of fired National Security Council staff aide North proved harmful, particularly the lack of time allowed to study almost 2,000 pages of his cryptic daily notes before his appearance. Just as damaging to the overall inquiry was the refusal by North's lawyer,

Brendan V. Sullivan Jr., to permit his client to be reinterviewed to get the meaning of notebook entries not covered in his public testimony, the committees' internal critics said.

- Misjudgments were made about some key witnesses. The two panels opened the hearings with retired Air Force major general Richard V. Secord, who had been questioned for a single day and not under oath. Committee lawyers mistakenly thought the public would not credit Secord's story. They also were told by the independent counsel's staff that North's deputy, Marine Lt. Col. Robert L. Earl, would be a key witness because he had been granted immunity by the special counsel. Instead, Earl was never even heard in public after he testified in closed sessions that he could not even recall the meaning of his own notes written just months earlier.

- A supposedly key witness developed by the House, former National Security Council aide James Radzinski, was held back from a scheduled public appearance when Senate lawyers questioned the reliability of his statements. He was to testify that he had seen other White House documents referring to a diversion of Iranian arms sales funds to aid the contras fighting the government of Nicaragua.

- The inability to break through what investigators consider the cover-up of key parts of the story stemmed in part from their agreement to allow White House or agency lawyers to sit in on all interviews and have copies of depositions. This meant that the investigators lost the element of surprise from one witness to the next, since the administration lawyers who sat in on the panels' interviews could warn upcoming witnesses of what had already transpired.

- The House and Senate committees did not explore the failure of Congress itself to aggressively pursue oversight of covert activities, especially after the cutoff of funds to the contras in 1984.

■ Investigation of CIA participation in the Iran-contra affair was limited by intelligence committee members on the House-Senate panel, particularly Senate Select Intelligence Committee Chairman David L. Boren (D-Okla.). Information that developed late in the investigation was not pursued with witnesses who had already testified.

The investigation has uncovered new evidence that the CIA knew all

along of the secret air resupply of the contras conducted by North and Secord, and produced testimony and information showing that the CIA assisted every flight. The agency supplied flight information and mechanics for aircraft repairs and did internal intelligence reports on the missions, according to one committee investigator.

"The whole mission of the agency was perverted," one committee investigator said, adding that the report should show that Casey and his deputy, Robert M. Gates, were less than candid in their testimony last year before the House and Senate intelligence committees.

One of the severest critics of the Iran-contra investigation is Boren, who, during the North testimony, publicly criticized the staff's questioning. On a scale of 0 to 10, he said he would give the committee a 5 because there are many unanswered questions.

"Where did it start?" Boren asked in an interview. "Did Iran want weapons? Did people want to make money? Did it start with the Israelis? Was it Casey? Was it to get money for the contras?"

"Was it North who drew in Casey, or Casey who drew in North? What was the arms dealers' role?"

Boren added, "We didn't get final answers to a lot of the questions."

However, it was Boren who talked the committees out of calling Gates to testify in public. And during a key closed-door questioning of Gates by staff lawyers last July 31, Boren intervened and publicly upbraided the lawyer asking questions which "all but effectively ended the usefulness of the session," according to one of those present.

A Senate aide said later that Boren's outburst occurred because he believed he had not been informed of the session, and that he later apologized to the staff when he realized his office had been notified.

The committees' 600-page report, to be released Nov. 16, includes a summary with conclusions and recommendations and chapters that trace the committees' version of what occurred. It has been extensively rewritten amid disagreements between Democrats and Republicans and House and Senate members.

According to sources, the report will contain no dramatic new information about the covert operations that became public a year ago and gripped the White House and the nation for the next nine months.

The section dealing with the CIA will avoid some key issues. Said a committee source, "It does not face the real issue of where Congress was deceived and where they were deceived willingly."

Sen. William S. Cohen (R-Maine), a panel member and vice chairman of the Senate intelligence committee, agreed. "What Congress has not done is admitted its own responsibility. We have been anxious to fix blame but not accept it . . . . We refused to accept the consequences of terminating aid to the contras [in 1984]."

Cohen gave "low marks" to Congress for what he said was its own failure, as well as the failure of intelligence oversight committees, to see the real purpose of the contra operation and more fully explore how the contras were obtaining money.

But Sen. Warren B. Rudman (R-N.H.), vice chairman of the Senate panel, said the twin goals of finding out what the president knew of the diversion and what happened to the money "were accomplished," and the contradictions that emerged among witnesses "are not essential to the story."

Committee member Sen. George J. Mitchell (D-Maine), however, said the committees did not get the full story. He said one reason was that "not all the witnesses were truthful." Mitchell, however, believes the inquiry is only at "midpassage . . . . It won't be a dead issue after [independent counsel] Walsh takes action."

Rep. Henry J. Hyde (R-Ill.) said the inquiry never determined how the Reagan administration initially got involved, but that "on balance," the hearings were "useful, important . . . [and] remarkably comprehensive."

Nonetheless, he said he saw the hearings as having been political. "Underlying this is a political struggle. Ronald Reagan was un-

assailable until" the Iran-contra affair.

Though the hearings showed the president was intimately involved in every step of the secret arms sales to Iran and also advocated and kept aware of the private support for the contras, many members of the committees said in interviews they opposed as useless a move by a majority of the House panel's Democrats to pose written questions to the president.

Mitchell said "interrogatories would not have made any sense . . . . We could not accomplish by written questions and answers what can be better done directly, and nobody could conceive his answering questions."

Cohen said, "Unless the president was subjected to cross-examination, it would be unproductive . . . a waste of time," a sentiment echoed by other opponents of the move. Inouye said it was "not appropriate to subpoena the president or vice president" and his committee further agreed it would not "request or write the president to appear."

While most committee members praised the White House coopera-

tion, many staff workers said a "gentlemen's agreement," by House majority chief counsel John W. Nields Jr. and Senate chief counsel Arthur L. Liman not to subpoena government documents sent the wrong message to the administration.

The White House did not release Poindexter's telephone logs and daily diaries to the committees—or to Poindexter—until after his closed depositions had taken place. Some members did not see them until the admiral was on the stand.

Mitchell, designated to be a lead questioner of North, who preceded the admiral as a public witness, said he could have used the Poindexter materials to prepare for questioning North.

Although it arrived while he was on the stand, the Poindexter material, sources pointed out, eventually enabled Sen. Sam Nunn (D-Ga.) and Rep. Peter W. Rodino Jr. (D-N.J.) to highlight a key, Nov. 22, 1986, Casey-Poindexter luncheon where the two were joined by North and interrupted by a Reagan phone call.

On that morning Justice Department officials had discovered the "diversion" document among North's office records and prepared for the interview the next day that would precipitate North's firing and Poindexter's resignation.

But the committees never asked North about the luncheon because they did not know of it when he was before them.

A similar problem developed with meeting notes of former White House chief of staff Donald T. Regan held by the White House. The panels especially sought 15 pages of Regan's handwritten notes of an important Nov. 10, 1986, White House meeting when the president and his top national security advisers discussed what to do about disclosure of the secret Iran arms-for-hostages dealings. The notes finally arrived the morning of Regan's appearance, which sources said explained why they got only limited attention.

Other Regan notes arrived well after the public hearings had ended. Inouye acknowledged the delay, but added that the notes "didn't make much difference . . . even if they intentionally withheld them. On the whole," he said, "delivery was in a timely fashion."

When there were problems, he said, "I believed [White House chief of staff Howard H.] Baker when he called and said, 'We had just located this.'"

There also were delays in getting materials from the CIA and Federal Bureau of Investigation, committee sources said.

One chief investigator said the panels' requests for CIA documents were filled from material in the agency's electronic index. "Everyone knows," he said, "that anything sensitive is not in the electronic index."

He similarly questioned the completeness of a list of meetings attended by Casey supplied to the panels from an agency computer.

Mystery also surrounds Casey's sworn testimony to House and Senate intelligence committees on Nov. 21, 1986. Casey testified that a CIA proprietary was involved in shipping unknown equipment to Iran in November 1985, but failed to disclose that White House and agency officials knew the cargo was Hawk antiaircraft missiles.

Sources said committee investigators have established that the first version of Casey's testimony, prepared in the CIA Nov. 18, described the cargo accurately.

Subsequent drafts became less and less truthful, but the panels have not established who changed the drafts. Gates told the intelligence committee last year he supervised the original preparation of Casey's testimony.

The "gentlemen's approach" also was reflected in a decision not to take depositions from Peter J. Wallison, Reagan's White House counsel during the Iran-contra affair, who handled White House staff documents after the first stories of the arms sales were published, and Thomas C. Green, Secord's attorney, who also received substantial payments from Swiss bank accounts controlled by Secord, North and Albert A. Hakim. Green said this week these were all legitimate legal fees; committee staff members said they have been told at least one payment was a finders' fee in an arms sale.

The committees' deadline problems were used by Brendan Sullivan, North's lawyer, to get them to agree to limit their closed-door questioning of North and not call him back after his public appearance.

Some key committee members opposed the deal, wanting instead to press a contempt of Congress action to get North on the committees' terms. But the House and Senate leaders, fearing a split, agreed to most of Sullivan's terms.

North's 21 notebooks were delivered the day before his closed-door appearance, only a week before his dramatic public hearings began. There was little time to study the notebooks and relate them to other materials.